

ARTHUR G. FISK.

MAY 18, 1910.—Ordered to be printed.

Mr. BURNHAM, from the Committee on Claims, submitted the following

REPORT.

[To accompany S. 4023.]

The Committee on Claims, to whom was referred the bill (S. 4023) for the relief of Arthur G. Fisk, beg leave to report thereon, with the recommendation that the bill pass when amended as follows:

Add at the end a new section, to wit:

SEC. 2. That there be, and there is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of fourteen thousand and fifty-five dollars and sixty-five cents for the purposes specified in this act.

The facts in the case are fully set out in the brief of R. P. Goodwin, Assistant Attorney-General for the Post-Office Department, dated December 4, 1906:

OFFICE OF THE ASSISTANT ATTORNEY-GENERAL  
FOR THE POST-OFFICE DEPARTMENT,  
*Washington, December 4, 1906.*

In re Arthur G. Fisk, postmaster, San Francisco, Cal. Claim for credit on account of loss resulting from earthquake and fire, April 18, 1906, as follows, viz: On postal account, \$13,266.07; on money-order account, \$955.61.

BRIEF.

It is a matter of world-wide knowledge that on April 18, 1906, the city of San Francisco, Cal., was visited by an earthquake, which destroyed many buildings, following which fires broke out in numerous places by which a great portion of the city, including a number of postal stations, was destroyed. A list of such stations appears below.

At the stations mentioned, each superintendent or clerk in charge had been furnished by the postmaster with a quantity of postage stamps and other stamped paper, the amount being fixed in each case, the proceeds from the sale of which were applied to the purchase from the postmaster of additional supplies as required, so that at all times the total amount and value of the postal funds, postage stamps, and other stamped paper on hand at each station was equal to the original allowance at such station.

No account appears to have been kept at the different stations of the daily sales of stamps, etc., for which reason it has been impossible to determine the respective amounts and values of the postal funds, postage stamps, and other stamped paper

lost; but the following table shows the total amount of such property lost at each station, as determined by an inspector of this department after careful investigation:

Station.	Location.	Superintendent or clerk in charge.	Allowance.	On hand after fire.	Loss.
A	Polk and Sacramento streets.....	Warren King.....	\$2,000.00	\$1,977.61	\$22.39
C	Twentieth and Mission streets.....	A. M. Cox.....	3,000.00	3,000.00	.....
E	Fourth and Townsend streets.....	D. F. Supple.....	1,500.00	1,361.02	138.98
K	40 New Montgomery street.....	D. M. Fitzgerald.....	6,000.00	4,404.46	1,595.54
O	825 Market street.....	W. M. Josephi.....	3,000.00	200.00	2,800.00
36	Mills Building.....	D. M. Smith.....	5,825.00	1,931.81	5,893.19
4	Merchants Exchange Building.....	Irving Pollak.....	2,000.00	.....	.....
9	436 Montgomery avenue.....	Carrie Epstein.....	400.00	293.42	106.58
12	1297 Washington street.....	Adeline Irvin.....	100.00	73.50	26.50
13	1941 Mission street.....	Samuel Jackson.....	200.00	140.33	59.67
14	2000 Market street.....	A. Spiro.....	300.00	300.00	.....
21	Powell and Post street.....	M. R. Bernheim.....	600.00	491.43	105.57
22	Third and Bryant streets.....	Frank Clarke.....	100.00	10.00	90.00
24	844 Larkin street.....	E. A. Stern.....	200.00	68.69	131.31
25	691 Sutter street.....	C. Crowhurst.....	300.00	270.20	29.80
28	Union and Hyde streets.....	E. A. Rosenfeld.....	100.00	48.00	52.00
29	639 McAllister street.....	J. W. Eaton.....	200.00	163.76	36.24
33	979 Market street.....	R. B. Hale.....	1,000.00	100.00	900.00
46	1298 Pacific street.....	J. W. Lomelino.....	200.00	.....	200.00
47	Market and Jones streets.....	S. W. Saalberg.....	500.00	500.00	.....
48	236 Sutter street.....	H. B. Goldsmith.....	1,000.00	182.19	817.81
49	Eddy and Taylor streets.....	W. P. Wheeler.....	100.00	100.00	.....
50	Polk and Sutter streets.....	W. M. Willits.....	200.00	.....	200.00
51	Folsom and First streets.....	D. L. McBride.....	100.00	91.91	8.09
52	Hayes and Franklin streets.....	J. F. Sullivan.....	200.00	180.02	19.98
53	Polk and Eddy streets.....	Geo. J. Redmond.....	200.00	167.58	32.42
Total.....			29,325.00	16,058.93	13,266.07

The amount of money-order funds claimed to have been lost is \$955.61; the amount shown by the auditor's statement is \$825.86. The difference is accounted for by the fact that the first-named amount includes the sum of money orders paid before the fire, and lost thereby, for which credit will be allowed by the auditor on receipt of proper certificates of payment; the actual loss of money-order funds is, therefore, \$825.86.

It appears from the inspector's reports that all the superintendents and clerks in charge of stations used their best efforts to save the funds and other property in their custody. The inspector was of opinion that the superintendent of Station O erred in turning over the property and funds he had saved to a party of United States troops, in command of an officer, for safe-keeping while he went to look after his family, which funds and property were subsequently lost, having been abandoned by the troops when ordered elsewhere. Concerning this action the inspector says, in his report of July 26, 1906:

"In reply to my inquiry as to why he took the action he did in this instance he claimed that it was in the interest of the service and with the belief that he was exercising such care and caution as would give the funds a probably greater protection and ultimately redound to his credit and benefit. This spirit was highly commendable if it had been carried out properly and to a successful end. He did not exercise such marked precaution in placing or leaving the funds, stock, and mail in the possession of United States troops without securing some form of receipt, or at least without securing the names and regiments and company designation of the officers to whose care he intrusted them. In my judgment, it was his bounden duty, when he went so far as to assume the responsibility of removing the funds and stock from the station, to care for them until they were delivered into the custody of some responsible hands or delivered at the main post-office."

Further particulars of the matter are given by the inspector as follows:

"I interviewed Superintendent Josephi, of Station O, who informed me that he reported at Station O a little before 8 a. m. on April 18, 1906, where he found considerable confusion resulting from the earthquake; that fire had broken out in several places in the vicinity of the station, and as it menaced the Parrott Building he decided to remove the valuable matter intrusted to his care from the building for safety. He states that he placed the stamps, stamped envelopes, money-order forms, records, registered matter, and records and all of the funds which were in the safe at the station in five pouches and tie sacks. The money and stamps, money-order forms, etc., he placed in lock pouches and fastened them with Eagle locks; that he placed the whole in a large box truck labeled 'The Emporium,' and with the assist-

ance of some soldiers and certain Emporium employees he wheeled the truck across Market street from the Parrott Building and placed it in the Market street entrance of the James Flood Building; that he left the truck and its contents there and returned to his home to look after the welfare of his family.

"He claims when he left there were some United States regulars presumably guarding the mail. He claims to have returned in about one hour and found that the Parrott Building was on fire and the truck of mail had been removed from the James Flood Building opposite. He claims to have traced the mail to the junction of O'Farrell and Market streets and Grant avenue, on the O'Farrell street side of the gore of the Phelan Building. At that locality he claims there were certain troops stationed with their camp outfit and accessories. He claims to have made effort to obtain a conveyance to remove the mail to the main office, but without success.

"Mr. Josephi states that he remained with the mail until about 4 o'clock in the afternoon, when he again desired to visit his family. He claims to have approached certain United States Army officers who appeared to be in command of the troops, handing one of the officers on horseback his card, stating his official position, and informing the officer that he desired to visit his home and asked the officer to look after the mail. He claims that the officers informed him that the truck and its contents would be properly cared for.

"When this truck load of mail was removed from the Parrott Building it contained the records, etc., from Station O. When Mr. Josephi found the truck at the Phelan Building, after it had been removed from the Flood Building, there had been added to it a pouch labeled 'From Alcatraz, Cal., to San Francisco, Cal.'

"Claiming to have been assured that the mail would be properly cared for, Mr. Josephi repaired to his home at about 4 p. m. He states that he returned to the Phelan Building about 7 p. m. on April 18, and when he neared that point he observed that the Phelan Building was burning, and he could not approach sufficiently close to the gore at O'Farrell and Market streets to observe whether or not the mail was still there. When he left the mail at 4 p. m. on that afternoon it was the last known trace of it he had."

Correspondence between Inspector O'Connell and the military officers at San Francisco elicited no information as to the disposition made of the pouches and sacks referred to, except the following, signed "C. A. Hunter, Major, Artillery Corps:"

"Respectfully returned to the adjutant. No information can be obtained except that the bags were seen near the entrance of the Phelan Building. I am informed that when the Sixty-fourth Company Coast Artillery left the Phelan Building there were a company of the Signal Corps and a company of Engineers near this building."

In his first report on the subject, Inspector O'Connell stated the amount and value of the postal funds, postage stamps, and other stamped paper lost as \$12,471.07, and the amount of money-order funds as \$955.61; further investigation, however, showed the amounts to be as stated above, viz: Postal funds, postage stamps, and other stamped paper, \$13,266.07, and money-order funds, \$825.86.

It appears from the inspector's report that at Station 50 the money-order funds were in a safe at the time the fire occurred, and no loss occurred on that account. The postal funds, postage stamps, and other stamped paper were left out of the safe and were destroyed, the amount of postal funds being estimated at about \$25 and the value of the other property at \$175. The inspector was of opinion that the superintendent of the station was negligent in failing to keep the postal funds in the safe and that no credit should be allowed for such funds. As appears above, it is impossible to determine in any case what proportion of the loss was of postal funds, because of the destruction of all records. Besides, the conditions were abnormal, and it would be a harsh ruling which would hold the superintendent liable for a loss occurring in such circumstances.

The inspector also censures the superintendent of Station O for having left the property pertaining to that station in charge of the United States troops without taking a receipt therefor or ascertaining the names of the officers in charge, etc. He concedes that while the funds, stamps, etc., would probably not have been lost had they been left in the safe at the station, the initial action of the superintendent was "highly commendable, if it had been carried out properly and to a successful end." There can be no room for doubt that in turning the property over to the officer in command of an organized body of United States troops the superintendent supposed he was taking the best possible means of insuring its safety; and if, in the unprecedented and terrifying conditions then existing, he erred in judgment, such error should not, in my opinion, be imputed to negligence. I therefore advise that the claim of the postmaster be transmitted to the Congress with the recommendation that authority be granted to credit him on his postal account with the sum of \$13,266.07 and on his money-order account with the sum of \$825.86.

R. P. GOODWIN,  
Assistant Attorney-General.

The claim of Postmaster Fisk was transmitted to Congress by Postmaster-General Cortelyou December 7, 1906, with the recommendation that authority be granted to credit the said postmaster as provided in the present bill, and this recommendation has also been made by Postmaster-General Meyer and Postmaster-General Hitchcock, as appears in the following letters.

Your committee recommend that the bill pass.

OFFICE OF THE POSTMASTER-GENERAL,  
Washington, D. C., December 7, 1906.

SIR: In compliance with the act of Congress approved May 9, 1888, and amendments thereto, I have the honor to transmit herewith the claim of Arthur G. Fisk, postmaster at San Francisco, Cal., for credit on account of loss resulting from earthquake and fire, with copies of reports by the inspector who investigated the matter and a summary of the evidence prepared by the Assistant Attorney-General for this department.

I recommend that authority be granted to credit the said postmaster in his postal account with \$13,266.07 and in his money-order account with \$825.86 and that appropriations be made therefor.

Very respectfully,

GEO. B. CORTELYOU,  
Postmaster-General.

THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.

---

POST-OFFICE DEPARTMENT,  
OFFICE OF THE POSTMASTER-GENERAL,  
Washington, D. C., May 8, 1907.

SIR: On December 7, 1906, Postmaster-General Cortelyou transmitted to you the claim of Arthur G. Fisk, postmaster at San Francisco, Cal., for credit on account of losses resulting from earthquake and fire, with the recommendation that authority be granted to credit the said postmaster in his postal account with \$13,266.07 and in his money-order account with \$825.86. I inclose a letter from Mr. Fisk, from which it appears that the loss of postal funds is \$36.28 less than claimed. I therefore recommend that credits of \$13,229.79 on postal account and \$825.86 on money-order account be authorized and that an appropriation be made therefor.

Respectfully,

G. V. L. MEYER,  
Postmaster-General.

HON. JOSEPH G. CANNON,  
Speaker of the House of Representatives.

---

POST-OFFICE DEPARTMENT,  
OFFICE OF THE POSTMASTER-GENERAL,  
Washington, D. C., December 9, 1909.

MY DEAR SIR: On December 7, 1906, Postmaster-General Cortelyou, in compliance with the act of Congress approved June 11, 1906 (ch. 424, 2 Supp., 528), transmitted to the Congress the claim of Arthur G. Fisk, postmaster at San Francisco, Cal., for credit on account of losses resulting from earthquakes and fire April 18, 1906, with the recommendation that authority be granted to credit the account of the said postmaster with the sum of \$13,266.07 for postal funds, postage stamps, and other stamped paper, and with the sum of \$825.36 for money-order funds, and that an appropriation be made therefor. It was subsequently ascertained that the loss of postal funds was \$36.28 less than originally claimed, and on May 8, 1907, the Speaker of the House of Representatives was so informed, and the recommendation was made that a credit of \$13,229.79 be authorized on postal account in lieu of the amount first mentioned.

So far as I am advised no action has been taken on the matter by the Congress, and the sums named are carried by the auditor for this department as outstanding balances against the postmaster.

The causes of this loss were wholly beyond the control of the postmaster, and he was in no way responsible therefor. Nearly five years have elapsed since the loss

occurred, and as a matter of justice the claim ought to be allowed. I can not too strongly recommend the introduction and passage at this session of the Congress of a bill authorizing the Postmaster-General to credit the postal account of the postmaster with the sum of \$13,229.79 for postal funds, stamps, and other stamped paper, and with the sum of \$825.86 for money-order funds.

I inclose printed copy of the papers in the case.

Very truly, yours,

F. H. HITCHCOCK,  
*Postmaster-General.*

Hon. HENRY E. BURNHAM,  
*Chairman Committee on Claims, United States Senate.*

U

